NO. X06-UWY-CV-18-6046436-S	**:**	**SUPERIOR COURT**
ERICA LAFFERTY, ET AL.	**:**	**COMPLEX LITIGATION DOCKET**
V.	**:**	**AT WATERBURY**
ALEX EMRIC JONES, ET AL.	**:**	**JULY 7, 2021**

NO. X-06-UWY-CV18-6046437-S	**:**	**SUPERIOR COURT**
WILLIAM SHERLACH	**:**	**COMPLEX LITIGATION DOCKET**
V.	**:**	**AT WATERBURY**
ALEX EMRIC JONES, ET AL.	**:**	**JULY 7, 2021**

NO. X06-UWY-CV-18-6046438-S	**:**	**SUPERIOR COURT**
WILLIAM SHERLACH, ET AL.	**:**	**COMPLEX LITIGATION DOCKET**
V.	**:**	**AT WATERBURY**
ALEX EMRIC JONES, ET AL.	**:**	**JULY 7, 2021**

PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR COMMISSION TO TAKE OUT OF STATE DEPOSITION OF WOLFGANG HALBIG

The Jones defendants move the Court to grant a commission to a competent authority for the purpose of compelling Wolfgang Halbig to testify and produce documents in connection with the above-captioned consolidated matters. The plaintiffs consent to the commission, but object to the scope of inquiry proposed by the Jones defendants. As this Court has already ruled, any inquiry concerning the settlement between Mr. Halbig and the plaintiffs is not reasonably calculated to lead to the discovery of admissible evidence and is barred. Therefore, the Court should grant the commission only insofar as the resulting subpoena does not compel testimony or production concerning the plaintiffs' settlement with Mr. Halbig.

I. BACKGROUND

On June 28, 2021, the Jones defendants filed a Motion for Commission to take the out-of-state deposition of Wolfgang Halbig. Dkt. 378.00. Mr. Halbig is a former defendant in this case. *See* Partial Withdrawal of Action Against Particular Defendant, Dkt. 317.00, Apr. 6, 2021. In their motion, the Jones defendants indicated that they intended to "ask about the settlement Mr. Halbig paid to be released from this action." Defs.' Mot. 2.

On July 2, 2021, this Court heard oral argument regarding "whether the defendants could properly inquire as to the plaintiffs' settlements with Midas and Halbig, including but not limited to the terms of those settlements" and "the value of those settlements." Order, Dkt. 389.00. The Court ruled that this "was not a proper line of inquiry." *Id.* In its oral ruling, the Court further noted that this line of inquiry "literally is a fishing expedition" and "is not proper inquiry." 7/2/21 Hrg. Tr. 49–51, Dkt. 398.00, July 7, 2021.

II. LEGAL STANDARD

The Practice Book provides that discovery "shall be permitted" whenever it is "material to the subject matter involved in the pending action," "would be of assistance in the prosecution or defense of the action," or is "reasonably calculated to lead to the discovery of admissible evidence." P.B. § 13-2. This provision "liberally permits discovery of information material to the subject matter involved in the pending action." *Lougee v. Grinnell*, 216 Conn. 483, 489 (1990), *overruled in part on other grounds by State v. Salmon*, 250 Conn. 147, 154-55 (1999). Under this standard, a plaintiff is entitled to "take the testimony of any person. . . by deposition upon oral examination." P.B. § 13-26, so long as the testimony is material to the action or would assist in its prosecution, P.B. § 13-2.

This legal standard is applicable to witnesses that reside outside of Connecticut: Both P.B.

13-28 and General Statutes § 52–148c create a mechanism by which a party can apply to the Connecticut court for a commission to take the deposition of an out-of-state witness.[1] *See* P.B. § 13-28 ("In any other state . . . depositions for use in a civil action . . . within this state shall be taken before . . . a person commissioned by the court before which such action or proceeding is pending . . . ."); Conn. Gen. Stat. § 52–148c (same).

"Once the commission is granted by the court in this state, a subpoena can be obtained in the proposed deponent's state to force the deponent to attend a deposition in his state." *Struckman v. Burns*, 205 Conn. 542, 552 (1987); *see also Milliun v. New Milford Hosp.*, 310 Conn 711, 719 n.7 (2013) (same); *Rhode v. Milla*, 287 Conn. 731, 743 (2008) (same); *Noll v. Hartford Roman Catholic Diocesan Corp*., 2008 WL 4635591, at *2 (Conn. Super. Sept. 26, 2008) (Shapiro, J.) (same); *Cassinelli Bros Const. Co v. Gray*, 1996 WL 278330, at *1 (Conn. Super. May 9, 1996) (Hickey, J.) (same).

III. WITNESS

Mr. Halbig was a frequent guest on the Alex Jones Show. During those appearances, the Jones defendants published and joined in Mr. Halbig's statements that the Sandy Hook shooting was a hoax. Additionally, Mr. Halbig visited Connecticut more than 22 times to harass the plaintiffs and "investigate" content for his websites, social media outlets, and media appearances. *See* Plaintiffs' Compl. ¶¶ 37, 59–72, 80, 85. As part of his Sandy Hook hoax campaign, Mr. Halbig broadcast claims that no one died in the shooting and the victims' family members are crisis actors. *Id.* ¶¶ 37, 60, 59–72, 145–170, 189–219. He first appeared on the Alex Jones Show in February 2014, and communicated with employees of Free Speech Systems, LLC ("FSS") concerning his

[1] Connecticut is not among the 41 signatories of the Uniform Interstate Depositions and Discovery Act (UIDDA). 16:16, Foreign Discovery, Trawick, Fla. Prac. & Proc. § 16:16 (2019-2020 ed.).

appearances and his claims. A central issue of this case is FSS's liability for publishing Mr. Halbig's defamatory statements. For these reasons, the Jones defendants are correct that Mr. Halbig's testimony concerning his statements and the surrounding circumstances are relevant.

However, as this Court has already ruled, any inquiry regarding any settlement between the plaintiffs and Halbig, including as to the terms or value of those settlements, is "not a proper line of inquiry." Dkt. 389.00. Such inquiry "literally is a fishing expedition," and therefore not discoverable.[2] 7/2/21 Hrg. Tr. 49–51. As a result, any compelled testimony or production concerning any settlement between any plaintiff and Mr. Halbig is improper, impermissible, and should be barred.

IV. CONCLUSION

For the foregoing reasons, the Court should grant limited authority to the commissioner to issue a subpoena only insofar as the subpoena does not compel testimony or production concerning the plaintiffs' settlement with Mr. Halbig.

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[2] Any inquiry related to apportionment or an offset is irrelevant to the case, and information related to settlement agreements is statutorily barred from reaching the jury. *See* Conn. Gen. Stat. § 52-216a (prohibiting any settlement, agreement not to sue, or release of claim among any plaintiffs or defendants in the action from being "read or in any way introduced to the jury"). As our Supreme Court has noted, "[i]t is readily apparent from a common sense reading of § 52–216a that its legislative objective was to prohibit in a trial to a jury its knowledge of any agreement or release involving a tortfeasor 'at any time during the trial of the cause of action' against another tortfeasor." *Peck v. Jacquemin*, 196 Conn. 53, 58–59 (1985). Discovery regarding potential post-verdict motions for remittitur or apportion-related offsets is permissible only after the verdict, and not before. *See Constr. Servs. of Bristol, Inc. v. CDC Fin. Corp.*, 2000 WL 1770277, at *4 (Conn. Super. Ct. Oct. 19, 2000) (Kocay, J.) (barring discovery on post-verdict matters). In any event, it is highly unlikely that apportionment will be relevant to this case. Conn. Gen. Stat. § 52-572h(*o*) provides "there shall be no apportionment of liability or damages between parties liable for negligence and parties liable on any basis other than negligence including . . . intentional, wanton or reckless misconduct . . . pursuant to any cause of action created by statute." This provision prohibits "the apportionment of liability between allegedly negligent tortfeasors and intentional or reckless tortfeasors, among others." *Eskin v. Castiglia*, 253 Conn. 516, 529–30 (2000). As the plaintiffs' claims against Mr. Halbig and the Jones defendants are overwhelmingly based on liability other than for negligence, *see generally* Pls.' Compl., it is extraordinarily unlikely that any fault will be apportioned.

THE PLAINTIFFS,

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CERTIFICATION

This is to certify that a copy of the foregoing has been emailed and/or mailed, this day, postage prepaid, to all counsel and *pro se* appearances as follows:

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